

Journal - Office of Legislative Counsel  
Monday - 28 June 1976

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5. (Unclassified - THW) LIAISON I called Representative Stephen J. Solarz (D., N. Y.) and spoke to him about the briefing for himself and Representative Michael Harrington (D., Mass.) set for 30 June. (See Memorandum for the Record.)

6. (Unclassified - THW) LIAISON I called Jack Brady, on the staff of the House International Relations Committee, and refreshed his memory regarding the request of Cliff Hackett, also on the Committee staff, to see a sensitive document [REDACTED] After discussing the matter with Brady, it was decided that I would call Hackett and tell him that the document was a working paper and contained information revealing intelligence sources which the Director had a responsibility to protect and therefore we could not provide Hackett with the document. If necessary, I will also state that the matter had been discussed with Brady.

STAT

7. (Unclassified - RLB) LEGISLATION Spoke with Dr. Benjamin Cooper, Professional Staff Member, Senate Interior and Insular Affairs Committee, regarding conference deliberations on the Federal Energy Administration Extension Act. Dr. Cooper said that due to a number of complications the conferees had not yet focused on Title 5 of the bill; Title 5 would establish an Office of Energy Information within the FEA that could draw on energy-related information of other Federal agencies. Since under current law FEA's legislative charter expires on 30 June, the Congress may opt for a bill extending the Agency for 30 days, in which case disposition of the provisions in Title 5 in which we are interested would be put off probably until after the July recess.

8. (Unclassified - WPB) LEGISLATION Bill Shattuck, Counsel to the Subcommittee on Administrative Law and Governmental Relations, House Judiciary Committee, called to let me know that Representative Paul McCloskey (R., Calif.) was planning on introducing an amendment to the Government in the Sunshine bill changing the language to the (b)(3) exemption in the Freedom of Information Act. He read me the language over the phone, and I told him I would get back to him tomorrow.

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CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

24 JUN 1976

Mr. James M. Frey  
Assistant Director for Legislative Reference  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Frey:

I am writing to offer certain comments regarding S. 1439, a bill which reorganizes the export functions of the Government with respect to non-military nuclear equipment and technology. This legislation was reported favorably with amendment by the Senate Government Operations Committee on 13 May 1976 and was referred jointly to the Senate Foreign Relations Committee and Joint Committee on Atomic Energy for a period of 60 days.

The Central Intelligence Agency is not directly concerned with the activities covered in S. 1439. However, there are at least five provisions in the bill under which the Agency may be called upon to provide foreign intelligence information to other Executive branch components. These include:

a. Paragraphs (1) and (2) of Section 4(c). These paragraphs require the Secretary of State to provide the Nuclear Regulatory Commission with certain data and recommendations which the Secretary is authorized to obtain from other Government agencies.

b. Paragraph (4) of Section 6(c). This paragraph authorizes the Commission to furnish Congress a complete record pertaining to export license applications and all data, findings and recommendations furnished to the Commission by the Secretary of State and other Executive agencies.

c. Section 7. This section authorizes the Arms Control and Disarmament Agency to prepare and to furnish the Commission, the Secretary of State, and the Congress a "Nuclear Proliferation Assessment Statement" with respect to certain strategically significant agreements and arrangements relating to non-military nuclear energy facilities and technology.



d. Section 8(c). This section directs the President to review all activities of Government agencies relating to limiting the spread of nuclear weapons and to make an annual report to Congress on Government efforts to control proliferation.

e. Paragraph (3)(D) of Section 10. This paragraph directs the President annually to submit to Congress information on the import or indigenous production by a non-nuclear weapons country of technology, components or facilities capable of producing special fissionable material suitable for direct use in a nuclear explosive device.

The impact of S. 1439 on the Central Intelligence Agency will depend upon the extent of assistance requested by the Secretary of State, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency in carrying out their duties under the proposed Act. In this connection, the Director of Central Intelligence has the statutory responsibility for protecting intelligence sources and methods from unauthorized disclosure, under section 102(d)(3) of the National Security Act of 1947. While there is no provision in S. 1439 which authorizes the public disclosure of sensitive information, it is believed that, to avoid confusion or misunderstanding, the bill should expressly state that its provisions should not be construed to authorize or permit the public disclosure of information classified under Executive order or statute.

Sincerely,

SIGNED

George L. Cary  
Legislative Counsel

Distribution:

Orig - Addressee

1 - DDS&T

1 - DDI

✓ - OLC Subject

1 - OLC OMB Liaison

1 - OLC Chrono

OLC:WPB:sm (23 June 76)

TO : Mr. Cary		DATE OF REQUEST
FROM : WPB		SUSPENSE DATE
<b>SUBJECT:</b> Agency letter on S. 1439		
<b>NOTES</b> <p>Attached is a letter to James Frey, OMB, on S. 1439, a bill governing the export of non-military nuclear technology. DDI was not bothered by anything in the bill; however, DDS&amp;T felt that to avoid any misunderstanding, the bill should expressly state that its provisions should not be construed to authorize public disclosure of classified information.</p> <p>I discussed the bill with George Gilbert at OMB. He told me that the Department of State, ERDA, and the Administration in general were strongly opposed to the legislation on more general grounds. Gilbert suggested that we register our concerns with OMB and they will attempt to raise them in an appropriate vehicle, such as a general OMB report or a report by another Agency.</p> <p>I discussed this with LLM, and he approved it for final.</p>		
<b>COORDINATED WITH (list names as well as offices)</b>		
NAME	OFFICE	DATE
Carl Weber	DDS&T	
NAME	OFFICE	DATE
<input type="text"/>	DDI	
NAME	OFFICE	DATE
NAME	OFFICE	DATE
<b>ACTION REQUIRED BY GLC</b> Sign letter to Frey		

94TH CONGRESS  
2D SESSION

# S. 1439

[Report No. 94-875]

## IN THE SENATE OF THE UNITED STATES

APRIL 15, 1975

Mr. PERCY (for himself, Mr. GLENN, and Mr. RIBICOFF) introduced the following bill; which was read twice and referred to the Committee on Government Operations

MAY 13, 1976

Reported by Mr. GLENN, with an amendment, and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 13, 1976

By unanimous consent referred jointly to the Joint Committee on Atomic Energy and the Committee on Foreign Relations for a period of 60 days

## A BILL

To reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 ~~That this Act may be cited as the "Export Reorganization~~  
4 ~~Act of 1975".~~

5 ~~STATEMENT OF PURPOSE~~

6 ~~SEC. 2. (a) The Congress hereby finds and declares—~~  
7 ~~(1) that it is in the interest of the economy and~~  
8 ~~effectiveness of the executive branch, and in the interest~~  
9 ~~of the effectiveness of congressional oversight, to reor-~~

II—O

1 ~~ganize and centralize certain export licensing functions~~  
2 ~~of the Government in a single agency to which all per-~~  
3 ~~sons and commercial interests seeking to engage in for-~~  
4 ~~ign commerce can apply;~~

5 ~~(2) that the Department of Commerce now has the~~  
6 ~~responsibility for providing such a centralized function~~  
7 ~~by issuing most export licenses required by the laws of~~  
8 ~~the United States;~~

9 ~~(3) that the Department of State, the Department~~  
10 ~~of the Treasury, the Energy Research and Development~~  
11 ~~Administration, and the Nuclear Regulatory Commission~~  
12 ~~now exercise export licensing and approval authorities~~  
13 ~~that are substantially similar to the authorities now exer-~~  
14 ~~cised by the Department of Commerce;~~

15 ~~(4) that these licensing and approval authorities~~  
16 ~~should be transferred to the Department of Commerce,~~  
17 ~~with appropriate coordination with other agencies to in-~~  
18 ~~sure that the national interest is protected in the licens-~~  
19 ~~ing and approval of exports;~~

20 ~~(5) that the exporting of nonmilitary nuclear fa-~~  
21 ~~cilities, material, and technology involves special prob-~~  
22 ~~lems related to common defense and security and public~~  
23 ~~health and safety posed by the international proliferation~~  
24 ~~of plutonium and other special nuclear materials, and by~~

1 ~~their potential conversion by nations and subnational~~  
2 ~~groups into explosive weapons or dispersal devices;~~

3 ~~(6) that the licensing of such exports should be~~  
4 ~~made contingent upon a determination that safeguards~~  
5 ~~against theft, diversion, and sabotage in recipient nations~~  
6 ~~are at least substantially comparable to the safeguards~~  
7 ~~that are required in order to obtain a commercial nuclear~~  
8 ~~license in the United States;~~

9 ~~(7) that determinations of safeguards comparability~~  
10 ~~should be made by the Nuclear Regulatory Commission,~~  
11 ~~the agency responsible for protecting common defense~~  
12 ~~and security and public health and safety through the~~  
13 ~~issuance of commercial nuclear licenses in the United~~  
14 ~~States, and~~

15 ~~(8) that commercial nuclear exports by the United~~  
16 ~~States should be made in the context of meaningful~~  
17 ~~international controls, and that consideration should be~~  
18 ~~given to the internationalization of all strategically~~  
19 ~~significant aspects of the nonmilitary nuclear fuel cycle.~~

20 ~~DEFINITIONS~~

21 ~~SEC. 3. As used in this Act, the term~~

22 ~~(1) "atomic energy facility or material for use for~~  
23 ~~nonmilitary purposes" means any production or utiliza-~~  
24 ~~tion facility, any special nuclear material, any source-~~

1 ~~material or any byproduct material as defined in sec-~~  
2 ~~tion 11 of the Atomic Energy Act of 1954, to be used~~  
3 ~~for nonmilitary purposes;~~

4 ~~(2) "Commission" means the Nuclear Regulatory~~  
5 ~~Commission;~~

6 ~~(3) "Department" means the Department of Com-~~  
7 ~~merce;~~

8 ~~(4) "function" includes power and duty;~~

9 ~~(5) "nonmilitary atomic energy technology" means~~  
10 ~~any technology which the Commission determines to~~  
11 ~~relate to atomic energy facilities or materials for use for~~  
12 ~~nonmilitary purposes;~~

13 ~~(6) "safeguards" means materials accountability~~  
14 ~~and physical security; and~~

15 ~~(7) "Secretary" means the Secretary of Commerce.~~

16 ~~TRANSFERS TO THE SECRETARY OF COMMERCE~~

17 ~~SEC. 4. (a) (1) There are transferred to the Secretary~~  
18 ~~of Commerce, and the Secretary shall perform, such functions~~  
19 ~~of the Secretary of State under section 414 of the Mutual~~  
20 ~~Security Act of 1954 as relate to the approval for export~~  
21 ~~(including the issuance of export licenses) of arms, ammu-~~  
22 ~~nition, and the implements of war.~~

23 ~~(2) No export license for arms, ammunition, and the~~  
24 ~~implements of war which prior to the effective date of this~~  
25 ~~Act would have been issued by the Secretary of State for~~



1 ~~arms, ammunition, and the implements of war may be issued~~  
2 ~~by the Secretary unless the Secretary of State has given writ-~~  
3 ~~ten approval for the issuance of such a license.~~

4 ~~(b) (1) There are transferred to the Secretary, and the~~  
5 ~~Secretary shall perform, such functions of the Secretary of~~  
6 ~~the Treasury under the Trading With the Enemy Act as re-~~  
7 ~~late to the issuance of export licenses.~~

8 ~~(2) No export license which prior to the effective date~~  
9 ~~of this Act was issued by the Secretary of the Treasury un-~~  
10 ~~der the Trading With the Enemy Act may be issued by the~~  
11 ~~Secretary unless the Secretary of the Treasury has given~~  
12 ~~written approval for the issuance of such a license.~~

13 ~~(c) (1) There are transferred to the Secretary, and the~~  
14 ~~Secretary shall perform, such functions of the Nuclear Regu-~~  
15 ~~latory Commission under sections 53 (a), 62, 82 (c), 103,~~  
16 ~~and 104 of the Atomic Energy Act as relate to the issuance~~  
17 ~~of export licenses for atomic energy facilities or materials for~~  
18 ~~use for nonmilitary purposes.~~

19 ~~(2) No export license for atomic energy facilities or~~  
20 ~~materials for use for nonmilitary purposes may be issued~~  
21 ~~after the effective date of this Act unless the provisions of~~  
22 ~~section 7 (a) of this Act are met.~~

23 ~~(d) (1) There are transferred to the Secretary, and the~~  
24 ~~Secretary shall perform, such functions of the Administrator~~  
25 ~~of the Energy Research and Development Administration as~~

1 ~~relate to the approval for export of nonmilitary atomic energy~~  
2 ~~technology.~~

3 ~~(2) No approval for export may be given for nonmili-~~  
4 ~~tary atomic energy technology after the effective date of this~~  
5 ~~Act, unless the provisions of section 7 (a) of this Act are~~  
6 ~~met.~~

7 ~~TRANSFER TO THE SECRETARY OF STATE~~

8 ~~SEC. 5. There are transferred to the Secretary of State,~~  
9 ~~and the Secretary shall perform, all functions of the Admin-~~  
10 ~~istrator of the Energy Research and Development Adminis-~~  
11 ~~tration relating to the development of international agree-~~  
12 ~~ments for cooperation on atomic energy facilities or materials~~  
13 ~~for use for nonmilitary purposes and nonmilitary atomic~~  
14 ~~energy technology.~~

15 ~~TRANSFERS TO THE NUCLEAR REGULATORY COMMISSION~~

16 ~~SEC. 6. (a) There are transferred to the Commission,~~  
17 ~~and the Commission shall perform, such functions of the~~  
18 ~~Administrator of the Energy Research and Development~~  
19 ~~Administration as relate to safeguards for atomic energy~~  
20 ~~facilities or materials for use for nonmilitary purposes and~~  
21 ~~nonmilitary atomic energy technology which are to be~~  
22 ~~exported.~~

23 ~~(b) There are transferred to the Commission, and the~~  
24 ~~Commission shall perform, such functions of the Secretary of~~  
25 ~~Transportation under sections 832 and 833 of title 18, United~~

1 ~~States Code, that relate to the transportation of radioactive~~  
2 ~~materials.~~

3 ~~SAFEGUARDS COMPARABILITY~~

4 ~~SEC. 7. (a) No export license for the exportation of~~  
5 ~~atomic energy facilities or materials for use for nonmilitary~~  
6 ~~purposes may be issued by the Secretary, and no approval~~  
7 ~~for the export of nonmilitary atomic energy technology may~~  
8 ~~be given by the Secretary, unless the Commission determines~~  
9 ~~that the recipient country to which any such technology,~~  
10 ~~facility, or material is to be exported has safeguards sub-~~  
11 ~~stantially at least comparable to safeguards required by the~~  
12 ~~Commission in the United States.~~

13 ~~(b) The Commission shall establish criteria for use~~  
14 ~~in the development of international agreements for coopera-~~  
15 ~~tion with foreign countries relating to safeguards with respect~~  
16 ~~to atomic energy facilities or materials for use for nonmili-~~  
17 ~~tary purposes and nonmilitary atomic energy technology.~~

18 ~~(c) (1) The Commission shall establish and operate a~~  
19 ~~training program to be made available to persons from coun-~~  
20 ~~tries which purchase licensed atomic energy facilities or~~  
21 ~~materials for use for nonmilitary purposes from any person~~  
22 ~~in the United States. Any such program shall include the~~  
23 ~~most advanced techniques and technology for materials ac-~~  
24 ~~counting and physical security, consistent with national~~  
25 ~~security interests of the United States.~~

1     ~~—(2) There are authorized to be appropriated such sums~~  
2     ~~as may be necessary to carry out the provisions of this~~  
3     ~~subsection.~~

4     ~~—NUCLEAR PROLIFERATION ASSESSMENT STATEMENT—~~

5     ~~SEC. 8. (a) The Commission shall, with respect to each~~  
6     ~~determination pursuant to section 7 (a) involving strategi-~~  
7     ~~cally significant atomic energy facilities or materials for use~~  
8     ~~for nonmilitary purposes and nonmilitary atomic energy tech-~~  
9     ~~nology, prepare and furnish a nuclear proliferation assessment~~  
10    ~~statement to the Arms Control and Disarmament Agency.~~

11    ~~—(b) In any case of a determination under section 7 (a)-~~  
12    ~~to which subsection (a) applies, the Commission shall notify~~  
13    ~~the Arms Control and Disarmament Agency of the proposed~~  
14    ~~approval or license and offer that Agency an opportunity~~  
15    ~~to comment on such approval or license.~~

16             ~~—SAFEGUARDS STUDY—~~

17    ~~SEC. 9. (a) (1) The Commission shall conduct a thor-~~  
18    ~~ough study of the safeguards guidelines and regulations for~~  
19    ~~atomic energy facilities or materials for use for nonmilitary~~  
20    ~~purposes established by the United States and by the Inter-~~  
21    ~~national Atomic Energy Agency, with special consideration~~  
22    ~~of the differences in such safeguards.~~

23    ~~—(2) Not later than nine months from the date of en-~~  
24    ~~actment of this Act, the Commission shall prepare and~~  
25    ~~transmit to the President and the Congress a report on the~~

~~1 study required by this subsection, together with such rec-~~  
~~2 ommendations, including recommendations for the upgrading~~  
~~3 of such safeguards, as the Commission deems advisable.~~

~~4 (b) (1) The Commission shall conduct a thorough~~  
~~5 study of the feasibility of internationalization of all strategi-~~  
~~6 cally significant aspects of the nonmilitary atomic energy~~  
~~7 fuel cycle.~~

~~8 (2) Not later than nine months from the date of en-~~  
~~9 actment of this Act, the Commission shall prepare and trans-~~  
~~10 mit to the President and the Congress a report on the study~~  
~~11 required by this subsection, together with such recommenda-~~  
~~12 tions as the Commission deems advisable.~~

~~13 (c) Such sums as may be necessary are hereby au-~~  
~~14 thorized to carry out the provisions of this section.~~

~~15 TRANSFER OF PERSONNEL AND PROPERTY~~

~~16 SEC. 10. (a) All personnel, liabilities, contracts, prop-~~  
~~17 erty, and records as are determined by the Director of the~~  
~~18 Office of Management and Budget to be employed, held, or~~  
~~19 used primarily in connection with any function transferred~~  
~~20 under the provisions of this Act, are transferred to the Sec-~~  
~~21 retary, to the Secretary of State, or to the Commission, as~~  
~~22 the case may be.~~

~~23 (b) (1) Except as provided in paragraph (2) of this~~  
~~24 subsection, personnel engaged in functions transferred under~~

1 ~~this Act shall be transferred in accordance with applicable~~  
2 ~~laws and regulations relating to transfer of functions.~~

3 ~~(2) The transfer of personnel pursuant to subsection~~  
4 ~~(a) shall be without reduction in classification or compensa-~~  
5 ~~tion for one year after such transfer.~~

6 ~~SAVINGS PROVISIONS~~

7 ~~SEC. 11. (a) All orders, determinations, rules, regula-~~  
8 ~~tions, permits, contracts, certificates, licenses, and privi-~~  
9 ~~leges—~~

10 ~~(1) which have been issued, made, granted, or al-~~  
11 ~~lowed to become effective in the exercise of functions~~  
12 ~~which are transferred under this Act, by (A) any~~  
13 ~~agency or office, or part thereof, any functions of which~~  
14 ~~are transferred by this Act, or (B) any court of compe-~~  
15 ~~tent jurisdiction, and~~

16 ~~(2) which are in effect at the time this Act takes~~  
17 ~~effect, shall continue in effect according to their terms~~  
18 ~~until modified, terminated, superseded, set aside, or re-~~  
19 ~~pealed by the Secretary, by the Secretary of State, or~~  
20 ~~by the Commission, as the case may be, or by any court~~  
21 ~~of competent jurisdiction, or by operation of law.~~

22 ~~(b) The provisions of this Act shall not affect any pro-~~  
23 ~~ceedings pending at the time this section takes effect before~~  
24 ~~any agency or office, or part thereof, functions of which are~~  
25 ~~transferred by this Act; but such proceedings, to the extent~~

~~1 that they relate to functions so transferred, shall be continued~~  
~~2 before the Department, the Department of State, the Energy~~  
~~3 Research and Development Administration, or the Commis-~~  
~~4 sion, as the case may be. Such proceedings, to the extent they~~  
~~5 do not relate to functions so transferred, shall be continued~~  
~~6 before the agency or office, or part thereof, before which they~~  
~~7 were pending at the time of such transfer. In either case~~  
~~8 orders shall be issued in such proceedings, appeals shall be~~  
~~9 taken therefrom, and payments shall be made pursuant to~~  
~~10 such orders, as if this Act had not been enacted; and orders~~  
~~11 issued in any such proceedings shall continue in effect until~~  
~~12 modified, terminated, superseded, or repealed by the Secre-~~  
~~13 tary, by the Secretary of State, or by the Commission, as~~  
~~14 the case may be, or by a court of competent jurisdiction, or~~  
~~15 by operation of law.~~

~~16 (c) (1) Except as provided in paragraph (2) —~~

~~17 (A) the provisions of this Act shall not affect suits~~  
~~18 commenced prior to the date this section takes effect, and~~

~~19 (B) in all such suits proceedings shall be had, ap-~~  
~~20 peals taken, and judgments rendered, in the same manner~~  
~~21 and effect as if this Act had not been enacted.~~

~~22 No suit, action, or other proceeding commenced by or against~~  
~~23 any officer in his official capacity as an officer of any agency~~  
~~24 or office, or part thereof, functions of which are transferred~~  
~~25 by this Act, shall abate by reason of the enactment of this~~

~~1 Act. No cause of action by or against any agency or office, or~~  
~~2 part thereof, functions of which are transferred by this Act,~~  
~~3 or by or against any officer thereof in his official capacity~~  
~~4 shall abate by reason of the enactment of this Act. Causes of~~  
~~5 actions, suits, or other proceedings may be asserted by or~~  
~~6 against the United States or such official of the Department,~~  
~~7 the Department of State, or the Commission, as may be ap-~~  
~~8 propriate and, in any litigation pending when this section~~  
~~9 takes effect, the court may at any time, on its own motion or~~  
~~10 that of any party, enter an order which will give effect to the~~  
~~11 provisions of this subsection.~~

~~12 (2) If before the date on which this Act takes effect,~~  
~~13 any agency or office, or officer thereof in his official capacity,~~  
~~14 is a party to a suit, and under this Act--~~

~~15 (A) such agency or office, or any part thereof, is~~  
~~16 transferred to the Secretary, the Secretary of State, or~~  
~~17 the Commission, as the case may be, or~~

~~18 (B) any function of such agency, office, or part~~  
~~19 thereof, or officer is transferred to the Secretary, the~~  
~~20 Secretary of State, or the Commission, as the case may~~  
~~21 be,~~

~~22 then such suit shall be continued by the Secretary, the Secre-~~  
~~23 tary of State, or the Commission, as the case may be (except~~  
~~24 in the case of a suit not involving functions transferred to the~~  
~~25 Secretary, the Secretary of State, or the Commission, as the~~



~~1 case may be, in which case the suit shall be continued by the  
2 agency, office, or part thereof, or officer which was a party to  
3 the suit prior to the effective date of this Act).~~

~~4 (d) With respect to any function transferred by this Act  
5 and exercised after the effective date of this Act, reference  
6 in any other Federal law to any agency, office, or part  
7 thereof, or officer so transferred or functions of which are so  
8 transferred shall be deemed to mean the Department, the  
9 Department of State, or the Commission, or officer in which  
10 such function is vested pursuant to this Act.~~

~~11 (e) Orders and actions of the Secretary, the Secretary of  
12 State, or the Commission, as the case may be, in the exercise  
13 of functions transferred under this Act shall be subject to  
14 judicial review in the same extent and in the same manner as  
15 if such orders and actions had been by the agency or office, or  
16 part thereof, exercising such functions, immediately preceding  
17 their transfer. Any statutory requirements relating to notice,  
18 hearings, action upon the record, or administrative review  
19 that apply to any function transferred by this Act shall apply  
20 to the exercise of such function by the Secretary, the Secre-  
21 tary of State, or the Commission, as the case may be.~~

~~22 (f) In the exercise of the functions transferred under  
23 this Act, the Secretary, the Secretary of State, or the Com-  
24 mission, as the case may be, shall have the same authority  
25 as that vested in the agency or office, or part thereof, ex-~~

14

1 ~~exercising such functions immediately preceding their transfer,~~  
2 ~~and his actions in exercising such functions shall have the~~  
3 ~~same force and effect as when exercised by such agency or~~  
4 ~~office, or part thereof.~~

5 ~~EFFECTIVE DATE~~

6 ~~SEC. 12. This Act, other than this section, shall take~~  
7 ~~effect ninety days after the date of enactment of this Act,~~  
8 ~~or on such prior date after enactment of this Act as the~~  
9 ~~President shall prescribe and publish in the Federal Register.~~  
10 *That this Act may be cited as the "Export Reorganization*  
11 *Act of 1976".*

12 *STATEMENT OF PURPOSE*

13 *SEC. 2. (a) The Congress hereby finds and declares—*

14 *(1) that it is in the interest of the economy and*  
15 *effectiveness of the executive branch, and in the interest*  
16 *of the effectiveness of congressional oversight, to reor-*  
17 *ganize and centralize certain export control functions*  
18 *of the Government;*

19 *(2) that the exporting of nonmilitary nuclear equip-*  
20 *ment, material, and technology involves special prob-*  
21 *lems related to foreign policy and to common defense and*  
22 *security and public health and safety posed by the inter-*  
23 *national proliferation of plutonium and other special*  
24 *nuclear material, and by their potential conversion by*

1        *nations and subnational groups into explosive weapons*  
2        *or dispersal devices;*

3            *(3) that the approval and licensing of such exports*  
4        *should take into account the adequacy of safeguards*  
5        *against theft, diversion, and sabotage in recipient nations;*

6            *(4) that Congress established the Nuclear Regula-*  
7        *tory Commission as the agency responsible for protect-*  
8        *ing the common defense and security and public health*  
9        *and safety through the issuance of commercial nuclear*  
10       *licenses both domestically and for export; and*

11           *(5) that the Department of State, the agency princi-*  
12        *pally responsible for the development and implementation*  
13        *of foreign policy, should have the principal responsibility*  
14        *for the negotiation and renegotiation of international*  
15        *agreements for civil nuclear cooperation and of subse-*  
16        *quent arrangements made pursuant to the agreements*  
17        *and should play an integral role in the approval for*  
18        *export of nonmilitary nuclear equipment, technology,*  
19        *and material; and*

20           *(6) that commercial nuclear exports by the United*  
21        *States should be made in the context of meaningful*  
22        *international controls, and that consideration should be*  
23        *given to the internationalization of all strategically sig-*  
24        *nificant aspects of the nonmilitary nuclear fuel cycle.*

DEFINITIONS

1  
2 *SEC. 3. As used in this Act, the term—*

3       (1) *“atomic energy facility or material for use for*  
4 *nonmilitary purposes” means any production or utiliza-*  
5 *tion facility, any special nuclear material, any source*  
6 *material or any byproduct material as defined in section*  
7 *11 of the Atomic Energy Act of 1954, to be used for non-*  
8 *military purposes;*

9       (2) *“Commission” means the Nuclear Regulatory*  
10 *Commission;*

11       (3) *“function” includes power and duty;*

12       (4) *“nonmilitary atomic energy technology” means*  
13 *any technology which the Commission determines to*  
14 *relate to atomic energy facilities or materials for use for*  
15 *nonmilitary purposes; and*

16       (5) *“nonnuclear weapons country” means any coun-*  
17 *try that had not detonated a nuclear device prior to the*  
18 *time the Treaty on the Non-Proliferation of Nuclear*  
19 *Weapons came into force;*

20       (6) *“nuclear weapons country” means any country*  
21 *that detonated a nuclear device prior to the time the*  
22 *Treaty on the Non-Proliferation of Nuclear Weapons*  
23 *came into force; and*

24       (7) *“safeguards” includes materials accountability*  
25 *and physical security.*

1            *TRANSFER TO THE SECRETARY OF STATE*

2            *SEC. 4. (a) There are transferred to the Secretary of*  
3            *State, and the Secretary shall perform, such functions of the*  
4            *Administrator of the Energy Research and Development*  
5            *Administration as relate to negotiating, renegotiating and*  
6            *entering into international agreements for cooperation on*  
7            *atomic energy facilities, components or materials for use for*  
8            *nonmilitary purposes and nonmilitary atomic energy tech-*  
9            *nology, and to negotiating, renegotiating and entering into*  
10           *all subsequent arrangements made pursuant to the agree-*  
11           *ments: Provided, That the Secretary shall obtain the close*  
12           *cooperation and the technical advice and assistance of the*  
13           *Administrator in negotiating, renegotiating, and entering into*  
14           *such agreements and such subsequent arrangements.*

15           *(b) (1) No agreement or subsequent arrangement under*  
16           *this section shall be negotiated, renegotiated, or entered into*  
17           *unless the Secretary of State has consulted with, and has taken*  
18           *into full consideration the recommendations and policies of,*  
19           *the Commission applying to the licensing for export of atomic*  
20           *energy facilities, components and materials for use for non-*  
21           *military purposes or the approval for export of nonmilitary*  
22           *atomic energy technology, which are the subject of such agree-*  
23           *ment or arrangement.*

24           *(2) The Commission shall furnish a copy of its views to*  
25           *the Congress when such a proposed agreement for cooperation*

to  
Congress

1 is submitted to the Congress pursuant to section 123(d) of  
2 the Atomic Energy Act of 1954, as amended.

3 (c) (1) The Secretary of State shall provide the Commis-  
4 sion with appropriate data and recommendations, subject to  
5 requests for additional data and recommendations as re-  
6 quired by the Commission, for the performance of its func-  
7 tions under sections 53(a), 62, 82(c), 103, 104, and 109(b)  
8 of the Atomic Energy Act as relate to the issuance of export  
9 licenses for atomic energy facilities, materials or components  
10 for use for nonmilitary purposes, and sections 4(b), 5(a),  
11 and 6(a) of this Act as relate to the furnishing to the Secre-  
12 tary of State and to the Congress the recommendations and  
13 policies of the Commission relating to negotiating, renegotiat-  
14 ing, and entering into international agreements for coopera-  
15 tion and subsequent arrangements made pursuant to the  
16 agreements by the Secretary, the approval for export by the  
17 Commission of atomic energy technology for use for non-  
18 military purposes, and the taking into account by the Commis-  
19 sion of the adequacy of safeguards on all atomic energy  
20 exports for use for nonmilitary purposes.

✓ 21 (2) The Secretary of State shall obtain the data and  
22 recommendations referred to in paragraph (1) from the De-  
23 partment of State and other such agencies of the Federal  
24 Government as he deems appropriate and furnish them to the  
25 Commission, except as provided in section 7(b).

1    **TRANSFERS TO THE NUCLEAR REGULATORY COMMISSION**

2        *SEC. 5. (a) There are transferred to the Commission,*  
3    *and the Commission shall perform, such regulatory functions*  
4    *of the Administrator of the Energy Research and Develop-*  
5    *ment Administration as relate to the approval for export of*  
6    *nonmilitary atomic energy technology.*

7        *(b) There are transferred to the Commission, and the*  
8    *Commission shall perform, such regulatory functions pursu-*  
9    *ant to section 109(b) of the Atomic Energy Act as presently*  
10   *exercised by the Secretary of Commerce with respect to the*  
11   *licensing for export of nuclear components.*

12    **SAFEGUARDS AND OTHER FUNCTIONS OF THE NUCLEAR**  
13                                    **REGULATORY COMMISSION**

14        *SEC. 6. (a) The Commission, in considering applica-*  
15    *tions for licenses for export of atomic energy facilities, com-*  
16    *ponents, and materials for use for nonmilitary purposes and*  
17    *applications for approval for export of nonmilitary atomic*  
18    *energy technology, and in making determinations relating to*  
19    *common defense and security and public health and safety*  
20    *under section 103 of the Atomic Energy Act, shall take into*  
21    *account the adequacy of safeguards in the recipient country*  
22    *to which any such facility, components, material, or tech-*  
23    *nology is to be exported to meet the risk of nuclear diversion,*  
24    *theft, or sabotage in the recipient country.*

25        *(b)(1) Within ninety days of the effective date of this*

1 *Act, the Commission shall promulgate regulations relating to*  
2 *what it deems to be appropriate issuance of public notice,*  
3 *access to nonclassified information, scheduling of public hear-*  
4 *ings, and recording of minutes and votes of the Commission*  
5 *with respect to applications for licenses for export of atomic*  
6 *energy facilities, components, and materials for use for non-*  
7 *military purposes and applications for approval for export*  
8 *of nonmilitary atomic energy technology.*

9       (2) *The export-licensing decisions of the Commission*  
10 *shall be announced in writing, and, where appropriate, ac-*  
11 *companied by a written opinion, including any concurring*  
12 *or dissenting view of the Commissioners. A detailed summary*  
13 *of the provisions of any such license approved by the Com-*  
14 *mission shall be published in the Federal Register as soon as*  
15 *practicable after such approval by the Commission, together*  
16 *with a description of the safeguards required to be followed*  
17 *in connection with such license and use of such facilities, com-*  
18 *ponents, material or technology.*

19       (c)(1) *No application for a license for export of atomic*  
20 *energy facilities, components, or material for use for non-*  
21 *military purposes or an application for approval for export*  
22 *of nonmilitary atomic energy technology shall be approved by*  
23 *the Commission unless the Secretary of State has given writ-*  
24 *ten approval for the issuance of such a license or the granting*  
25 *of such approval.*



1       (2) Any special nuclear material distributed by the  
2       Energy Research and Development Administration to any  
3       nation or group of nations for nonmilitary purposes shall  
4       require the issuance of a license by the Commission, subject  
5       to the written approval of the Secretary of State, as provided  
6       in this section.

7       (3) In the event that the Commission does not agree with  
8       the Secretary that an application should be approved, or the  
9       Commission determines that an application raises substantial  
10      issues that the Commission cannot resolve, the Commission  
11      shall defer approval of the application for sixty days hence,  
12      pending a review by the Congress.

13      (4) In the event that the Commission exercises the option  
14      pursuant to paragraph (3) it shall furnish the Congress a  
15      complete record pertaining to the particular application, in-  
16      cluding a report explaining its action and any findings made  
17      pursuant to subsection (a) and to section 103 of the Atomic  
18      Energy Act of 1954, as amended, and all data, findings,  
19      and recommendations furnished to the Commission by the  
20      executive agencies pursuant to sections 4 and 7 of this Act.  
21      The aforementioned application and accompanying docu-  
22      mentation shall be submitted immediately to the Congress and  
23      referred to the Joint Committee on Atomic Energy for a  
24      period of sixty days while Congress is in session (in com-  
25      puting such sixty days, there shall be excluded the days on

1    *which either House is not in session because of an adjourn-*  
2    *ment of more than three days), and the Commission shall*  
3    *approve and issue the license for export of atomic energy fa-*  
4    *cilities or materials for use for nonmilitary purposes or*  
5    *approve the export of nonmilitary atomic energy technology,*  
6    *as the case may be, immediately upon expiration of the sixty-*  
7    *day period unless during such sixty-day period the Congress*  
8    *passes a concurrent resolution stating in substance that it*  
9    *does not favor the proposed export. Prior to the elapse of*  
10    *the first thirty days of any such sixty-day period the Joint*  
11    *Committee shall submit a report to the Congress of its views*  
12    *and recommendations respecting the proposed export and an*  
13    *accompanying proposed concurrent resolution stating in sub-*  
14    *stance that the Congress favors, or does not favor, as the*  
15    *case may be, the proposed export. Any such concurrent res-*  
16    *olution so reported shall become the pending business of the*  
17    *House in question (in the case of the Senate the time for*  
18    *debate shall be equally divided between the proponents and*  
19    *the opponents) within twenty-five days and shall be voted on*  
20    *within five calendar days thereafter, unless such House shall*  
21    *otherwise determine.*

22        *(d) There is authorized to be appropriated to the Com-*  
23    *mission an additional sum of \$1,400,000 for fiscal year*  
24    *1977, such sum to remain available until expended, for the*  
25    *purpose of exercising its responsibilities relating to safe-*

1 *guards for atomic energy facilities, components and ma-*  
2 *terials for use for nonmilitary purposes and nonmilitary*  
3 *atomic energy technology which are to be exported.*

4 *NUCLEAR PROLIFERATION ASSESSMENT STATEMENT*

5 *SEC. 7. (a) The Commission shall, with respect to its*  
6 *functions pursuant to section 4(b) involving all international*  
7 *agreements for cooperation, and those subsequent arrange-*  
8 *ments made pursuant to the agreements which the Commis-*  
9 *sion determines to be of strategic significance, and pursuant*  
10 *to section 6(a) involving what the Commission determines*  
11 *to be strategically significant atomic energy facilities, com-*  
12 *ponents, or materials for use for nonmilitary purposes and*  
13 *nonmilitary atomic energy technology, obtain a Nuclear Pro-*  
14 *liferation Assessment Statement from the Arms Control and*  
15 *Disarmament Agency.* ✓

16 *(b) The Arms Control and Disarmament Agency shall*  
17 *prepare and furnish such Nuclear Proliferation Assessment*  
18 *Statements directly to the Commission, to the Secretary of*  
19 *State, and to the Congress.* ✓

20 *(c) The Commission shall notify the Agency when it*  
21 *requires that a Nuclear Proliferation Assessment Statement*  
22 *be prepared by the Agency, or the Director of the Agency may*  
23 *prepare such a statement at his own discretion. Such state-*  
24 *ment shall be furnished by the Agency to the Commission by*  
25 *a mutually agreeable date.*

1        *SAFEGUARDS TRAINING PROGRAM AND STUDIES*

2        *SEC. 8. (a) The Energy Research and Development*  
3        *Administrator, in consultation with the Commission, shall*  
4        *establish and operate a training program to be made available*  
5        *to persons from countries which purchase licensed atomic*  
6        *energy facilities, components, or materials for use for non-*  
7        *military purposes or nonmilitary atomic energy technology*  
8        *from any person in the United States. Any such program*  
9        *shall include training in the most advanced safeguards tech-*  
10       *niques and technology, consistent with national security*  
11       *interests of the United States.*

12       *(b)(1) The Commission shall conduct a thorough, con-*  
13       *tinuing study of the safeguards guidelines and regulations*  
14       *for atomic energy facilities, components, and materials for*  
15       *use for nonmilitary purposes and nonmilitary atomic energy*  
16       *technology established by the United States and by the Inter-*  
17       *national Atomic Energy Agency, with special consideration*  
18       *of the differences and interactions between such safeguards.*

19       *(2) As soon as practicable after the end of each fiscal*  
20       *year, the Commission shall prepare and transmit to the*  
21       *President and the Congress a report on the study required*  
22       *by this subsection, together with such recommendations, in-*  
23       *cluding recommendations for the upgrading of such safe-*  
24       *guards, as the Commission deems advisable.*

25       *(c) The President is directed to review all activities*

1 of Government agencies relating to limiting the spread of  
2 nuclear weapons and to make an annual report to Congress  
3 not later than December 31 on the Government's efforts to  
4 control proliferation, such report to include but not be limited  
5 to discussion of—

6 (1) promoting cooperative arrangements between  
7 the United States and other nations for the purpose of  
8 preventing the stockpiling of nuclear weapons material  
9 outside the nuclear weapons nations;

10 (2) promoting adherence to the Treaty for the Non-  
11 Proliferation of Nuclear Weapons and discouraging or  
12 prohibiting nuclear sales to nations that are not parties  
13 to the treaty or have not entered into comparable agree-  
14 ments with respect to safeguards and nuclear explosions;

15 (3) strengthening the safeguards of the International  
16 Atomic Energy Agency, ensuring uniform application of  
17 such safeguards and promoting promptness and openness  
18 in the verification and reporting procedures of the  
19 Agency;

20 (4) promoting an international convention or similar  
21 mechanism for establishing and enforcing minimum  
22 physical security standards for preventing acts of sabo-  
23 tage and theft with respect to civilian nuclear equipment  
24 and material;

25 (5) promoting an international convention or simi-

1        *lar mechanism for recovering diverted or stolen nuclear*  
 2        *material, for imposing swift and strict sanctions against*  
 3        *all nations that engage in unauthorized use of nuclear*  
 4        *material or conduct unauthorized nuclear explosions, and*  
 5        *for dealing with subnational or criminal groups engaging*  
 6        *in acts of sabotage or of theft or using or threatening*  
 7        *to use nuclear explosive or dispersal devices.*

8        *(d) Section 307(c) of the Energy Reorganization Act*  
 9        *of 1974 is amended by adding a paragraph at the end there-*  
 10       *of, as follows:*

11                *"In addition, the Commission report shall include*  
 12                *a full summary and analysis of the Commission's rec-*  
 13                *ommendations and actions in regard to nonmilitary nu-*  
 14                *clear exports, with emphasis on the adequacy of safe-*  
 15                *guards to ensure that such exports are not misused for*  
 16                *nuclear-explosion programs."*

17        *(e) Such sums as may be necessary are hereby au-*  
 18        *thorized to carry out the provisions of this section.*

19                        **IDEA SAFEGUARDS ACTIVITIES**

20        *SEC. 9. (a) It is the policy of the United States to*  
 21        *strengthen the safeguards program of the International*  
 22        *Atomic Energy Agency and in order to implement this policy*  
 23        *to contribute funds to assist the Agency in meeting the chal-*  
 24        *lenge of effectively implementing nuclear safeguards at a*

1 *time when international utilization of nuclear power for*  
2 *growing energy needs is rapidly increasing.*

3 *(b) There is hereby authorized to be appropriated*  
4 *\$5,000,000 for contributions to the International Atomic*  
5 *Energy Agency toward its safeguards activities, which*  
6 *amount is authorized to remain available until expended:*  
7 *Provided, That such sums shall be in addition to any other*  
8 *contribution to the International Atomic Energy Agency by*  
9 *the United States pursuant to any other provision of law.*

10 *NUCLEAR NONPROLIFERATION OBJECTIVES*

11 *SEC. 1<sup>9</sup> (a) The President is requested and authorized*  
12 *to enter promptly into negotiations with the Union of Soviet*  
13 *Socialist Republics, France, the Federal Republic of Ger-*  
14 *many, the United Kingdom, Canada, and Japan, and such*  
15 *other nuclear supplier countries as he deems appropriate, for*  
16 *the express purpose of reaching an agreement which shall be*  
17 *binding on each of the parties, and which shall include pro-*  
18 *visions for—*

19 *(1) arrangements leading to the cooperative pro-*  
20 *vision, under international safeguards, of nuclear reactor*  
21 *fuel enrichment, fabrication and reprocessing services to*  
22 *recipient countries on a nondiscriminatory basis, includ-*  
23 *ing the application of article 12 of the statute of the*  
24 *International Atomic Energy Agency (hereinafter re-*

1       ferred to as the "Agency") providing for the deposit with  
2       the Agency of excess special fissionable material and spent  
3       reactor fuel;

4           (2) prohibition of the transfer to any individual  
5       non-nuclear weapons country of any technology, com-  
6       ponent, or facility capable of enriching, fabricating, or  
7       reprocessing special fissionable material;

8           (3) prohibition of the transfer of any nonmilitary  
9       atomic energy technology and any atomic energy facility,  
10      component, or material for use for nonmilitary purposes  
11      to any non-nuclear weapons country that has not entered  
12      into an agreement with the Agency—

13           (A) to accept the safeguards of the Agency on  
14      all source and special fissionable material in all  
15      nuclear activities within the territory of such coun-  
16      try, under its jurisdiction, or carried out under its  
17      control anywhere, and

18           (B) to undertake not to receive the transfer of,  
19      or manufacture or otherwise acquire nuclear weap-  
20      ons or other nuclear explosive devices, and not to  
21      receive any assistance in the manufacture of nuclear  
22      weapons or other nuclear explosive devices;

23           (4) establishing—

24           (A) minimum physical security standards for  
25      the protection against acts of sabotage and theft of



1        *all facilities and all shipment, handling, and storage*  
2        *of source and special fissionable material within the*  
3        *territory or under the jurisdiction of each of the*  
4        *parties, and transferred by the parties to other coun-*  
5        *tries, and*

6                *(B) an international mechanism for enforce-*  
7        *ment of such standards, for recovery of stolen source*  
8        *and special fissionable material, and for dealing with*  
9        *individuals and groups engaging in acts of sabotage*  
10       *and theft;*

11       *(5) establishing—*

12                *(A) sanctions to be imposed against any nu-*  
13       *clear supplier country that refuses to participate in*  
14       *the arrangements described in paragraphs (1), (2),*  
15       *(3), and (4) of this subsection, and any country*  
16       *that willfully violates the safeguards of the Agency,*

17                *(B) an international mechanism for recover-*  
18       *ing source and special fissionable material that has*  
19       *been obtained or used by a country in willful viola-*  
20       *tion of the safeguards of the Agency, including use*  
21       *in a nuclear explosion program, and for recovering*  
22       *any exported technology, component, or facility used*  
23       *in connection with such violation.*

24       *(b) The President is requested and authorized to enter*  
25       *promptly into bilateral and multilateral negotiations with as*

1 many other countries as possible including those referred to  
2 in subsection (a) for the express purpose of reaching an  
3 agreement which shall be binding on each of the parties and  
4 which shall establish an international mechanism for dealing  
5 with and imposing sanctions on any non-nuclear-weapons  
6 country that, by virtue of engaging in unauthorized nuclear  
7 activities beyond the reach of, or in violation of, the safe-  
8 guards of the Agency, is deemed to have embarked upon a  
9 nuclear weapons program. Such international mechanism  
10 shall, with respect to any non-nuclear-weapons country that  
11 has detonated a nuclear explosive device, include procedures  
12 for—

13 (1) suspending some or all commerce and communi-  
14 cations between the parties and such country;

15 (2) requiring the return of any exported source or  
16 special fissionable material, and any exported technology,  
17 component or facility used in such a nuclear weapons  
18 program.

19 (c) The President is directed to prepare and submit a  
20 report to the Congress not later than June 1, 1977, and  
21 annually thereafter as a part of the report due December 31  
22 pursuant to subsection 8(c) of this Act, which shall include—

23 (1) a description of the degree of progress made  
24 toward the negotiation of agreements that meet each of  
25 the objectives described in subsections (a) and (b);

1       (2) *an analysis of each agreement for cooperation*  
2       *negotiated pursuant to section 123 of the Atomic Energy*  
3       *Act, including a discussion of the scope of the require-*  
4       *ments and obligations relating to the safeguards and*  
5       *peaceful or civil uses contained in each agreement and*  
6       *a discussion of the adequacy of such requirements and*  
7       *obligations to protect the interests of the United States*  
8       *and to maintain its obligations to prevent the further*  
9       *proliferation of atomic weapons capability;*

10       (3) *a determination as to which agreements for*  
11       *cooperation should be modified because they are incon-*  
12       *sistent with the interests and obligations of the United*  
13       *States pursuant to paragraph (2). In making such de-*  
14       *terminations, the President shall discuss whether each*  
15       *agreement should prohibit the following activities and*  
16       *whether such activities have been engaged in by the*  
17       *recipient country—*

18               (A) *the explosion of a nuclear device by a non-*  
19       *nuclear weapons country;*

20               (B) *the refusal by a non-nuclear weapons coun-*  
21       *try to accept the safeguards of the Agency on all*  
22       *nuclear activities;*

23               (C) *the refusal by a non-nuclear weapons coun-*  
24       *try to give a specific assurance that it will not engage*  
25       *in a nuclear explosion program;*

1           (D) the import or indigenous production by a  
2           non-nuclear weapons country of technology, com-  
3           ponents or facilities capable of producing special  
4           fissionable material suitable for direct use in a  
5           nuclear explosive device; and

6           (E) the stockpiling by a non-nuclear weapons  
7           country on a national basis of special fissionable  
8           material suitable for direct use in a nuclear explosive  
9           device.

10          (4) beginning December 31, 1977, and annually  
11          thereafter, a statement on the degree of progress made  
12          toward renegotiating any agreements for cooperation  
13          which the President has cited as needing modification  
14          pursuant to paragraph (3) of this subsection.

15                               EFFECTIVE DATE

16          SEC. 13. This Act, other than this section, shall take  
17          effect ninety days after the date of enactment of this Act,  
18          or on such prior date after enactment of this Act as the  
19          President shall prescribe and publish in the Federal Register.

20                               TRANSFER OF PERSONNEL AND PROPERTY

21          SEC. 11. (a) All personnel, liabilities, contracts, prop-  
22          erty, and records as are determined by the Director of the  
23          Office of Management and Budget to be employed, held, or  
24          used primarily in connection with any function transferred

1 under the provisions of this Act, are transferred to the Sec-  
2 retary of State or to the Commission, as the case may be.

3 (b)(1) Except as provided in paragraph (2) of this  
4 subsection, personnel engaged in functions transferred under  
5 this Act shall be transferred in accordance with applicable  
6 laws and regulations relating to transfer of functions.

7 (2) The transfer of personnel pursuant to subsection  
8 (a) shall be without reduction in classification or compensa-  
9 tion for one year after such transfer.

10 SAVINGS PROVISIONS

11 SEC. 12. (a) All orders, determinations, rules, regula-  
12 tions, permits, contracts, certificates, licenses, and privi-  
13 leges—

14 (1) which have been issued, made, granted, or al-  
15 lowed to become effective in the exercise of functions  
16 which are transferred under this Act, by (A) any  
17 agency or office, or part thereof, any functions of which  
18 are transferred by this Act, or (B) any court of compe-  
19 tent jurisdiction, and

20 (2) which are in effect at the time this Act takes  
21 effect,

22 shall continue in effect according to their terms until modi-  
23 fied, terminated, superseded, set aside, or repealed by the  
24 Secretary of State or by the Commission, as the case may

1 *be, or by any court of competent jurisdiction, or by opera-*  
2 *tion of law.*

3       *(b) The provisions of this Act shall not affect any pro-*  
4 *ceedings pending at the time this section takes effect before any*  
5 *agency or office, or part thereof, functions of which are*  
6 *transferred by this Act; but such proceedings, to the extent*  
7 *that they relate to functions so transferred, shall be continued*  
8 *before the Department of State, or the Commission, as the*  
9 *case may be. Such proceedings, to the extent they do not*  
10 *relate to functions so transferred, shall be continued before*  
11 *the agency or office, or part thereof, before which they were*  
12 *pending at the time of such transfer. In either case orders*  
13 *shall be issued in such proceedings, appeals shall be taken*  
14 *therefrom, and payments shall be made pursuant to such*  
15 *orders, as if this Act had not been enacted; and orders*  
16 *issued in any such proceedings shall continue in effect until*  
17 *modified, terminated, superseded, or repealed by the Secre-*  
18 *tary of State or by the Commission, as the case may be, or by*  
19 *a court of competent jurisdiction, or by operation of law.*

20       *(c)(1) Except as provided in paragraph (2)—*

21               *(A) the provisions of this Act shall not affect suits*  
22       *commenced prior to the date this section takes effect, and*

23               *(B) in all such suits proceedings shall be had, ap-*  
24       *peals taken, and judgments rendered, in the same manner*  
25       *and effect as if this Act had not been enacted.*

1 *No suit, action, or other proceeding commenced by or against*  
 2 *any officer in his official capacity as an officer of any agency*  
 3 *or office, or part thereof, functions of which are transferred*  
 4 *by this Act, shall abate by reason of the enactment of this*  
 5 *Act. No cause of action by or against any agency or office, or*  
 6 *part thereof, functions of which are transferred by this Act,*  
 7 *or by or against any officer thereof in his official capacity*  
 8 *shall abate by reason of the enactment of this Act. Causes of*  
 9 *actions, suits, or other proceedings may be asserted by or*  
 10 *against the United States or such official of the Department*  
 11 *of State or the Commission, as may be appropriate and, in*  
 12 *any litigation pending when this section takes effect, the court*  
 13 *may at any time, on its own motion or that of any party,*  
 14 *enter an order which will give effect to the provisions of this*  
 15 *subsection.*

16 *(2) If before the date on which this Act takes effect,*  
 17 *any agency or office, or officer thereof in his official capacity,*  
 18 *is a party to a suit, and under this Act—*

19 *(A) such agency or office, or any part thereof, is*  
 20 *transferred to the Secretary of State or the Commission,*  
 21 *as the case may be, or*

22 *(B) any function of such agency, office, or part*  
 23 *thereof, or officer is transferred to the Secretary of State*  
 24 *or the Commission, as the case may be,*  
 25 *then such suit shall be continued by the Secretary of State*

1 *or the Commission, as the case may be (except in the case*  
2 *of a suit not involving functions transferred to the Secretary*  
3 *of State or the Commission, as the case may be, in which case*  
4 *the suit shall be continued by the agency, office, or part there-*  
5 *of, or officer which was a party to the suit prior to the effec-*  
6 *tive date of this Act).*

7 *(d) With respect to any function transferred by this Act*  
8 *and exercised after the effective date of this Act, reference*  
9 *in any other Federal law to any agency, office, or part*  
10 *thereof, or officer so transferred or functions of which are so*  
11 *transferred shall be deemed to mean the Department of State*  
12 *or the Commission, or officer in which such function is vested*  
13 *pursuant to this Act.*

14 *(e) Orders and actions of the Secretary of State or the*  
15 *Commission, as the case may be, in the exercise of functions*  
16 *transferred under this Act shall be subject to judicial review*  
17 *in the same extent and in the same manner as if such orders*  
18 *and actions had been by the agency or office, or part thereof,*  
19 *exercising such functions, immediately preceding their trans-*  
20 *fer. Any statutory requirements relating to notice, hearings,*  
21 *action upon the record, or administrative review that apply to*  
22 *any function transferred by this Act shall apply to the exer-*  
23 *cise of such function by the Secretary of State or the Com-*  
24 *mission, as the case may be.*

25 *(f) In the exercise of the functions transferred under*



1 *this Act, the Secretary of State or the Commission, as the*  
2 *case may be, shall have the same authority as that vested in*  
3 *the agency or office, or part thereof, exercising such functions*  
4 *immediately preceding their transfer, and his actions in*  
5 *exercising such functions shall have the same force and effect*  
6 *as when exercised by such agency or office, or part thereof.*

Amend the title so as to read: "A bill to reorganize certain export functions of the Federal Government to promote more efficient and effective administration of such functions."

94TH CONGRESS  
2D SESSION

**S. 1439**

[Report No. 94-875]

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## **A BILL**

To reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

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By Mr. PERCY, Mr. GLENN, and Mr. RIBICOFF

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APRIL 15, 1975

Read twice and referred to the Committee on  
Government Operations

MAY 13, 1976

Reported with an amendment, and an amendment to  
the title

MAY 13, 1976

By unanimous consent referred jointly to the Joint  
Committee on Atomic Energy and the Committee  
on Foreign Relations for a period of 60 days

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28. (Unclassified - BAA) LIAISON Maureen, in the office of Representative Larry Winn (R., Kan.), called and requested a copy of the publication entitled, "International and Transnational Terrorism: Diagnosis and Prognosis." A copy was sent to her.

29. (Unclassified - LLM) LIAISON In conversations with Tim Hardy, White House Staff, and Doug Marvin, Department of Justice, learned that there had been no further progress on the draft bill concerning assassinations, that the last action was the President's endorsement in principle of the Church bill.

30. (Unclassified - LLM) LIAISON Called Brian Conboy, in the office of Senator Jacob Javits (R., N.Y.), and discussed the items on the agenda for our meeting tomorrow with the Senator.

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GEORGE L. CARY  
Legislative Counsel

cc:  
O/DCI  
O/DDCI  
Ex. Sec.  
Mr. Lapham  
Mr. Parmenter  
Mr. Falkiewicz  
DDI DDA DDS&T  
IC Staff  
SA/DDO/EO  
Comptroller

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11. (Unclassified - DFM) HEARING Accompanied Mr. Knoche, DDCI Designate; [redacted] D/Comptroller; [redacted] and [redacted] to Mr. Knoche's confirmation hearing before the Senate Select Committee on Intelligence. The remarks of all Senators present were extremely favorable and the Committee's favorable recommendation is assured. (See Memorandum for the Record.)

12. (Unclassified - DFM) INTELLIGENCE BRIEFING Met with Gilbert Keyes, on the staff of the Senate Committee on Aeronautical and Space Sciences, regarding the latest Soviet Salyut launch. I offered Keyes a briefing on the launch, and we tentatively agreed on 25 June at 10:00 a.m.

13. (Unclassified - DFM) INTELLIGENCE BRIEFING Met with Phil McGance, Administrative Assistant to Senator Jennings Randolph (D., W. Va.), about the briefing we offered the Senator on U.S. trade in sensitive items with the Soviet Union in response to the Senator's 21 April letter. McGance said the Senator would like a briefing on the subject and that McGance would call to set up a time.

14. (Unclassified - RLB) LEGISLATION Picked up some material from the House Rules Committee related to zero-base budget review legislation.

15. (Unclassified - RLB) LEGISLATION Picked up from the Senate Banking, Housing and Urban Affairs Committee the most recent Committee print of the consolidated bill regarding certain foreign payments by U.S. businesses. I chatted briefly with staff members Robert Kuttner and Kenneth McLean on the substance of the bill and outlined to them in very general terms a couple of possible problem areas in the bill. They said they would be glad to talk further with us if, after we had a chance to review the bill fully, we felt there was a need to address these issues.

Spoke also with Mr. Franz Oppen, on the staff of the Subcommittee on Consumer Protection and Finance, House Interstate and Foreign Commerce Committee, to determine whether the House was considering actively legislation related to foreign payments by businesses. According to Mr. Oppen, neither his Subcommittee nor the full Committee was planning at this time to actively consider this legislation, but that the Senate may pressure the House to act on the Senate-initiated legislation.

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